

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHAWN MICHAEL HERRON II,

Plaintiff,

Case No. 17-cv-10091
Hon. Matthew F. Leitman

v.

JOHN DITCHMAN, *et al.*,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF # 34)
AND GRANTING DEFENDANTS' MOTIONS FOR SUMMARY
JUDGMENT (ECF ## 25, 30)**

In this action under 42 U.S.C. §1983, Plaintiff Shawn Michael Herron II alleges that Defendants John Ditchman and Dan Wilkinson violated his Eighth Amendment rights by restraining him and forcibly administering injections. The Defendants have filed motions for summary judgment in which they argue that Herron's claims are barred by the applicable statute of limitations. The assigned Magistrate Judge has issued a Report and Recommendation in which she recommends granting the Defendants' motions. (ECF #34.) The Magistrate Judge explained that the applicable limitations period is three-years and that Herron filed his claims almost four years after the alleged incident. At the conclusion of the

Report and Recommendation, the Magistrate Judge informed Herron that he had fourteen days in which to file objections. Herron has not filed any objections.

The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). But the Court has nonetheless conducted an independent review of the matter, and the Court concludes that the Magistrate Judge's analysis and recommended disposition are correct. Herron alleges that the assault occurred in 2013, and he did not file this action until 2017 – well beyond the applicable three-year statute of limitations. *See Drake v. City of Detroit*, 266 Fed. Appx. 444, 448 (6th Cir. 2008) (noting that claims for personal injury under 42 U.S.C. §1983 are governed by Michigan's three-year statute of limitations).

In addition, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because Herron has failed to file any objections to the R&R and because the recommended disposition is correct, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommendation to grant Defendants' Motions for Summary Judgment is **ADOPTED**.

IT IS FURTHER ORDERED that Defendants' Motions for Summary Judgment are **GRANTED**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: August 24, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 24, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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